<u>REMARKS</u>

In the Office Action dated July 27, 2006, claims 1-21 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent Application Publication No. 2002/0169658 (Adler).

<u>DECLARATION UNDER 37 C.F.R. § 1.131</u>

The Office Action asserted that the Rule 131 Declaration dated June 5, 2006 "is ineffective to overcome the Adler ... reference." 7/27/2006 Office Action at 2. The Office Action stated that the "information provided must meet all the claim limitations in order to sufficiently support a declaration for reduction to practice. *Id.* at 2-3. The Office Action indicated that the evidence submitted is insufficient to establish both actual reduction to practice and conception of the invention. *Id.* at 3.

Applicant respectfully disagrees with the assessment that the Rule 131 Declaration was insufficient to overcome the Adler reference. The Rule 131 Declaration dated June 5, 2006 specifically referred to various passages in Exhibit A (the Invention Disclosure submitted by the inventor) prior to March 8, 2001. *See* 6/5/2006 Rule 131 Declaration, ¶¶ 2-8. The M.P.E.P. indicates that the "essential thing" to be shown under Rule 131 is priority of invention and "this may be done by any satisfactory evidence of the fact." M.P.E.P. § 715.07 (8th ed. Rev. 5), at 700-280. As stated by the M.P.E.P., facts, not conclusions, must be alleged. *Id.* Facts, not conclusions, were specifically alleged in the 6/5/2006 Rule 131 Declaration. The M.P.E.P. further stated that the exhibit relied upon should be specifically referred to in the declaration in terms of what it is relied upon to show. *Id.* The 6/5/2006 Rule 131 Declaration clearly referred to specific passages in Exhibit A, including a figure in Exhibit A that is substantially the same as Fig. 1 of the present application. Such specific references are sufficient pursuant to the guidelines of the M.P.E.P.

In an effort to move prosecution along, however, Applicant is providing an element-by-element reading of elements of claim 1 onto the teachings of Exhibit A, in a Supplemental Declaration under 37 C.F.R. § 1.131 submitted herewith. The Supplemental Rule 131 Declaration includes a claim chart in ¶ 8 that correlates elements of claim 1 to disclosures in the Invention Disclosure (Exhibit A). The other independent claims contain similar subject matter and thus are equally supported by the Invention Disclosure (Exhibit A).

Without question, Exhibit A establishes conception of the present invention prior to March 8, 2001. Therefore, the statement in the Office Action that the submitted evidence is insufficient to establish conception of the invention is erroneous.

Exhibits B-E to the Supplemental Rule 131 Declaration are provided to establish reduction of the invention prior to the critical date (March 8, 2001). The Office Action stated that the evidence submitted is insufficient to establish actual reduction to practice. The Office Action asserted that the evidence "must meet all the claim limitations in order to sufficiently support a declaration for a reduction to practice." 7/27/2006 Office Action at 3. In making this assertion, it appears that the Examiner has ignored the teachings provided in Exhibit A (the Invention Disclosure) and is requiring that Exhibits B-E separately provide explicit teachings of the claimed invention.

This approach is contrary to the guidelines provided by the M.P.E.P., which states that "the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompany exhibits, records and 'notes.'" *Id.* at 700-281. In fact, the M.P.E.P. states that "[a]n accompanying exhibit need not support all claim limitations, provided that any missing limitation is supported by the declaration itself." *Id.*

Viewed in its entirety, the evidence submitted in the Supplemental Rule 131 Declaration (and in the previously submitted 6/5/2006 Rule 131 Declaration) is clearly sufficient to support both conception and reduction to practice of the invention prior to the date of March 8, 2001. The Invention Disclosure (Exhibit A) specifically refers to a MUMS software system. Exhibits B-E constitute evidence of implementation of the MUMS software system. Exhibit B shows software modules of the MUMS system. Exhibit C shows a "Script Users Guide" that describes elements of a script used in the MUMS system. The fact that a Script Users Guide exists clearly establishes that the software modules of the MUMS system were reduced to practice. As further proof of implementation of the MUMS software system, Exhibit D is provided, which is an Installation and Maintenance Guide, which describes installation and maintenance operations for the MUMS software system. The Installation and Maintenance Guide establishes that the software modules were successfully executed prior to March 8, 2001. In fact, the Invention Disclosure itself (Exhibit A) indicates that results were obtained from successful use of the invention prior to March 8, 2001. Supplemental Rule 131 Declaration, ¶ 13. Another document

cited in the Rule 131 Declaration is Exhibit E, which is a paper by Gary Charness and Kay-Yut Chen, which describes on page 65, in a section titled "Experimental Procedure," execution of software that makes up the MUMS system that contained an implementation of the invention. In the paper, the experiments were indicated as being conducted in September 1999 and in February 2000. As stated by the Inventor, the MUMS software system worked for its intended purpose. Supplemental Rule 131 Declaration, ¶¶ 10, 14.

Viewed in its entirety, it is clear that there is sufficient evidence to support conception and actual reduction to practice of the invention prior to March 8, 2001. Therefore, withdrawal of the rejection of the claims as being anticipated by Adler is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Since the invention date of the present application is prior to the effective date of the Adler, the § 102(e) rejection has been overcome.

Moreover, even if Adler qualifies as prior art with respect to the claimed subject matter, Adler does not anticipate the claims. For example, with respect to claim 1, Adler does not disclose translating player definitions into at least one codified script. The Office Action identified the following passages of Adler as disclosing this task of claim 1: ¶¶ [0040], [0126]. Paragraph [0040] of Adler refers to assessment of decision options with a simulation engine that "projects concrete outcomes, modeled in extensive quantitative detail, of candidate decision options under alternative scenarios." There is no teaching in this passage of Adler of translating player definitions into at least one codified script. Paragraph [0126] of Adler refers to "the simulation engine qua [sic] generic simulation framework with logic specific to particular decision domain, its players, and their behaviors." Again, there is no mention in this passage of Adler of translating player definitions into at least one codified script.

In view of the foregoing, it is respectfully submitted that claim 1 is not anticipated by Adler. Independent claim 10 is also not anticipated by Adler, which does not disclose a script translator module for translating player definitions into codified scripts that define at least one simulation stage. Independent claim 18 is also not anticipated by Adler, which fails to disclose translating definitions into a codified script.

Dependent claims are allowable for at least the same reasons as corresponding independent claims. Moreover, it is respectfully submitted that dependent claims 3 and 12 are further allowable over Adler for at least the reason that Adler does not disclose that the players include a combination of human and automated players. The assertion in the Office Action that claims 3 and 12 are disclosed by Adler is contradictory to the assertion in the Office Action that Adler discloses the subject matter of dependent claims 2 and 11. Claims 2 and 11 recite that the players are *exclusively* human. If Adler discloses this, as asserted by the Office Action, then Adler cannot disclose that the players include a combination of human and automated players, as recited in claims 3 and 12.

Moreover, the Office Action cited Table 8 of Adler as purportedly disclosing automated players, with the Office Action pointing to the statement in the table that "[m]arket level

procedure may import data for specific businesses (vs. generating automatically)." Adler, ¶ [0150]. There is nothing in this passage to even remotely suggest that players for which definitions are provided can include automated players.

With respect to dependent claim 8, the Office Action cited ¶ [0112] of Adler as disclosing a script that is compiled in its entirety before execution. The cited passage of Adler refers to injecting singular occurrences or predicted trends into a scenario—there is absolutely no mention whatsoever of *compiling* a script. Similarly, with respect to dependent claim 7, there is no teaching in Adler of *compiling* a script on the fly. Dependent claims 15 and 16 are similarly further allowable.

In view of the foregoing, it is respectfully submitted that all claims are in condition for allowance.

RESPONSE TO REQUEST FOR INFORMATION UNDER 37 C.F.R. § 1.105

In response to the request for information under 37 C.F.R. § 1.105, Applicant provides the response below and the attached Form PTO-1449 listing various references. As indicated by the Office Action on page 11, the fee and certification requirements of 37 C.F.R. § 1.97 is *waived* for information submitted in response to this request.

Pages 11 and 12 of the Office Action sought the following pieces of information:

1.   Citation and copy of each publication in which the applicant authored or co-authored and which describes the disclosed subject matter of six articles listed on page 12 of the Office Action.

The inventor, Kay-Yut Chen, has co-authored an article, entitled "AutONA: A System for Automated Multiple 11 Negotiation," dated 2003, which has some relation to the following article cited in the Office Action: Nir Vulkan et al., "Automated Trading in Agents-based Markets for Communication Bandwidth," dated February 2000. A copy of this article is submitted herewith, along with citation in the attached Form PTO-1449.

The inventor, Kay-Yut Chen, does not remember authoring or co-authoring any publication that describes the subject matter of the other articles listed on page 12 of the Office Action: (1) Dave Cliff et al., "Minimal-Intelligence Agents for Bargaining Behaviors in Market-Based Environments," dated August 1997; (2) Dave Cliff et al., "Less Than Human: Simple Adaptive Trading Agents for CDA Markets," dated 1997; (3) Anna Durante et al., "A Model for the E-Service Marketplace," dated 2000; (4) Dave Cliff et al., "Shop 'Til Your Drop II: Collective Adaptive Behavior of Simple Autonomous Trading Agents in Simulated 'Retail' Markets," dated 1998; and (5) Ian Dickinson, "Human-Agent Communication," dated 1998.

In the interest of completeness, however, Applicant is including in the attached Form PTO-1449 additional articles authored or co-authored by Kay-Yut Chen.

2.   Documentation as to release date, product name and abilities of software programs listed in the Rule 131 Declaration on page 2, ¶ 9.

Exhibits A-E attached to the Rule 131 Declaration constitute the documentation regarding the MUMS software system. After reasonable inquiry with the inventor and with a representative of the Assignee, additional documentation that specifically describes the abilities

the MUMS software system was not found. The product name is MUMS (multi-user and multi-stage). The MUMS software system has not been externally released.

However, the MUMS software system was internally used at the assignee, the Hewlett-Packard Company (hereinafter "HP"), in 1999 and later. *See* Supplemental Rule 131 Declaration, ¶ 15. The MUMS software system released in 1999 included features of claims 1, 2, 4-7, 9-11, 13-15, and 17-21 of the present application. *Id.* In 1999, the MUMS software system was executed in a lab at HP, based on input information from a business group at HP. *Id.* Output data was generated based on execution of the MUMS software system that was executed in the lab at HP in 1999. *Id.* The output data was provided to the business group at HP, which used the output data as one factor, among other factors, in formulating a business decision. *Id.*

In view of the foregoing, allowance of all claims is respectfully requested.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10004567-1).

Respectfully submitted,

Date:_____Nov 27, 2006_____

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